

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5686

PETITION OF VANCE T. PETERSON
(Hearing held December 5, 2001)

OPINION OF THE BOARD
(Effective date of Opinion, January 4, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The petitioner proposes to construct a bay window that requires a two (2) foot variance as it is within five (5) feet of the side lot line. The required setback is seven (7) feet.

The subject property is Lot 26 and part of Lot 25, Block 13, Chevy Chase Section 1-A Subdivision, located at 4014 Oliver Street, Chevy Chase, Maryland, in the R-60 Zone (Tax Account No. 00452607).

Decision of the Board: Requested variance **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a bay window that would extend 1.9 feet into the western side yard.
2. The petitioner testified that his lot is very shallow and that his lot is smaller than the lots that border the property. The petitioner testified that he proposes to enclose an existing screened porch and that the bay window would be included as a part of the construction. The petitioner testified that the bay window would expand the living space and enhance the appearance of the proposed construction.
3. The petitioner testified that the neighbors most impacted by the new construction support the variance request and that the variance request has received the approval of the Managers of the Village of Chevy Chase.

FINDINGS OF THE BOARD

Based upon the petitioner's bind testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) and (b) as follows:

(a)By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific

parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioner's lot is similar in character to lots neighboring his property (See, Exhibit No. 11, Zoning Vicinity Map) and has no exceptional or topographical or other conditions that are peculiar to the property.

(b)Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.

The proposed enclosure of an existing screened porch would include the addition of a bay window that would extend the porch's footprint an additional 1.9 foot into the western side yard. The Board finds that the variance requested is not the minimum reasonably necessary and that the enclosure of the screened porch could be completed without the need for a variance.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Angelo M. Caputo, seconded by Allison Ishihara Fultz, with Donna L. Barron, Louise L. Mayer and Donald H. Spence, Jr., in agreement, the Board adopted the foregoing Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 4th day of January, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

